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OF COUNSEL

October 31, 2022

**Via ECF**

Hon. Lee G. Dunst, U.S.M.J.  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: *Agudelo v. Recovco Mortgage Management LLC et al.*, No. 22 Civ. 4004  
**Update to the Court**

Dear Judge Dunst:

The parties write pursuant to the Court's October 25, 2022, direction to provide the Court with an update on the status of the above-captioned matter.

**History of Settlement Discussions**

The parties first discussed settlement on August 26, 2022, and agreed that in order for Plaintiffs to convey a meaningful settlement demand, Defendants would need to produce certain payroll and other financial documents. Plaintiffs' counsel provided defense counsel a set of informal discovery requests on August 30, 2022. Defendants produced payroll documents on September 27, 2022, and Plaintiffs began working on a damages calculation. Defendants further produced a limited set of corporate financial documents on October 14, 2022, but have yet to produce promised documents concerning the assets of Defendant Michael Strauss.

**Current Status**

Plaintiffs shared their draft damages calculation with Defendants on October 26, 2022. To provide a more accurate calculation, Plaintiffs need Defendants to produce additional documents that were previously requested.

To date, Defendants have not produced requested discovery regarding individual Defendants' assets or attempts to secure financing. Plaintiffs need these documents to make an informed settlement decision on behalf of the class, and to provide the most accurate calculation of damages under their state and federal WARN Act claims. Defendants' counsel has advised us that they expect to produce financing documents by the end of today, and expect to receive and produce Defendant Michael Strauss' personal asset information no later than November 4, 2022.

On October 26, 2022, Plaintiffs proposed mediation as a way to add structure to the settlement discussions that have taken place thus far and hold the parties accountable for moving the matter forward in a timely manner. Defendants are amenable to a mediation. In the interest of moving things along, the parties have agreed to share names of proposed mediators by November 4, 2022, and attempt to agree to a mediator and mediation date by November 9, 2022.

Defendants' counsel has also advised us that Defendants are in the process of coordinating a similar request to mediate from law firms representing plaintiffs in two separate California class action proceedings arising from the same facts as the instant lawsuit. Those cases were filed after the above-captioned matter, assert claims only under California state law, and bear the captions *Boyer v. Sprout, Recovco, & Strauss*, Case No. 37-2022-00029036-CU-OE-CTL pending in California Superior Court, San Diego County; and *Sawyer and Harvey v. Sprout, Recovco, Strauss & Pallante*, Case No. 30-2022-01271017-CU-OE-CXC, pending in California Superior Court, Orange County.

Respectfully submitted,

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cc: All counsel (by ECF)